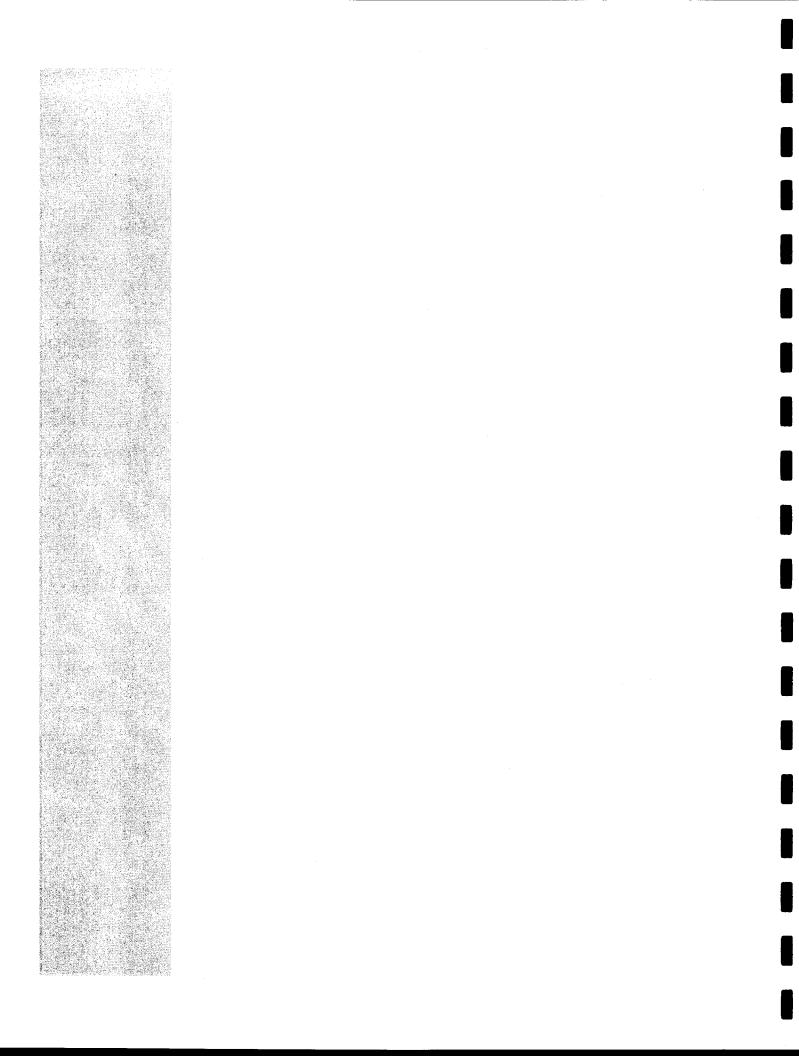
LEGAL NEEDS SOLUTION OF LOW INCOME HOUSEHOLDS IN MONTANA

FINAL REPORT - 2005



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By D. Michael Dale
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A Study Conducted by the Montana State Bar Association in
conjunction with the
Equal Justice Task Force and Access to Justice Committee

Acknowledgements

This study was made possible by the generous financial support of the Montana Justice Foundation, Montana Board of Crime Control, the State Bar of Montana and Attorneys Liability Protection Society (ALPS), LSC, Montana Advocacy Program, Montana School of Law, Court Assessment Program, Child and Family Section of the State Bar, Federal Practice Section of the State Bar of Montana and the Montana Office of Public Instruction.

This study could not have been completed without the contribution of substantial time from the 182 volunteer surveyors who conducted over 850 interviews in every part of the state of Montana.

The authors would like to thank Professor Grant Farr and the Department of Sociology at Portland State University for their wisdom and support in this project.

Acknowledgment is due to members of the oversight committee, comprised of members of the Montana Supreme Court Equal Justice Task Force and State Bar of Montana's Access to Justice Committee, with staff support from State Bar and Americorp VISTAs.

Most of all, we thank the low income Montanans who took time out of often busy and difficult lives to share their stories and experiences.

For further information regarding the study or report, contact Ann Gilkey, Equal Justice Coordinator, State Bar of Montana at (406) 442-7660 or agilkey@montanabar.org. The report is also available online at www.montanabar.org.

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Introduction

This report analyzing data from the Montana Legal Needs Study contains a flood of figures, graphs and charts, detailing the grievous need for legal help that the volunteer interviewers found in low income households across the state. It would be remiss, however, to allow impersonal numbers and charts to obscure the profound personal impact of unmet legal need on individuals.

Many households experienced only a single, isolated legal problem over the course of the prior year, and some of those problems were not overly severe. However, in other cases the inability to address one legal problem spiraled into many other serious difficulties. Some cases stand out.

Consider the case of "Frank" from Billings. Frank had filed a report of patient abuse after he was asked by his employer to falsify records about the death of a elder patient. Falsely accused of sexual harassment, he was suspended without pay. Though he was ultimately vindicated and reinstated, he never recovered the wages lost during his suspension. After the abuse investigation ended, Frank was fired for not reporting to work or calling in, though he had been sick and had called to say he would not be coming to work. His foot became infected, but his insurance had lapsed, so he was stuck with the full hospital bill. Unable to pay his bills, he fell behind on child support. Since legal services represented his wife, he could not get an attorney to lower his support award or to enforce his rights to visitation. Although the roof of the house he was living in was water-logged and started to cave in, the locks didn't work so that strangers were walking in and he had no electricity, his efforts to obtain other housing were stymied because he was told that the owners "don't rent to deadbeat dads" -reference to nonpayment of child support on his credit report. He was denied credit because of false information on the credit report that he could not get corrected. In desperation, Frank sought to file bankruptcy, but legal services could not represent him, so he had to raise the funds to file; an irony since the reason he wanted to file was because he was broke. He was able to borrow money with a car title loan at an effective interest rate of 315%. But even after he filed bankruptcy, he kept getting harassing calls from creditors regarding discharged bills. These callers were telling personal information about him to co-workers. Finally, he was served a summons to collect discharged medical bills.

"Laura" is a Native American woman who fled to Helena to avoid domestic abuse. Homeless, she lived in a shelter with her two children for three months. Trying to get a divorce from her abusive husband, Laura was able to handle custody on her own, but needed help negotiating a parenting plan, for which she is on a waiting list at legal aid. Meanwhile, she has had to take her children out of Head Start because, without a parenting plan to file with the provider, she can't stop her husband from picking up the children. She had previously had her phone disconnected. She has paid the bill, but now can't pay the large deposit being demanded by the phone company. She has applied for help with the TAPS telephone assistance program, but it had been three or four weeks with no response. She was making payments toward a deposit for her power bill. Laura had worked for 12 years as a secretary, but developed carpal tunnel, and applied for workers compensation. After her claim was denied she was fired. She applied for social security disability benefits, but was denied, and told to apply for workers compensation. She cannot collect unemployment benefits

Many households experienced only a single, isolated legal problem over the course of the prior year, and some of those problems were not overly severe. However, in other cases the inability to address one legal problem spiraled into many other serious difficulties.

¹The names of individual survey respondents described are fictitious to protect them from loss of privacy and from possible retaliation.

Trying to get a divorce from her abusive husband. Laura . . . needed help negotiating a parenting plan. for which she is on a waiting list at legal aid. Meanwhile. Helen has had to take her children out of Head Start because, without a parenting plan to file with the provider, she can't stop her husband from picking up the children.

because she was fired from her job. She has taken out a car title loan, but has no income to repay it.

"Helen" lives on the reservation but life isn't easy there either. She couldn't find representation in a dispute over custody of her children. Her son has had trouble at school, where he would get into fights and be sent home with no dialogue from the school, and no help from social services. He has been suspended five times and she believes that some of the suspensions were unfair, but has had no means to contest them. She has had trouble getting Indian Health Services to pay for her children's medical expenses. She can't get services from the Indian child welfare agency even though she was a client. She can't get her son enrolled in her tribe because the tribal counsel won't schedule a meeting to consider the issue. Helen gets harassing phone calls at work for a VISA bill. Also, the fees were miscalculated by a payday lender and she had to argue for reimbursement. Helen and her family frequently encounter racism and discrimination in restaurants and stores in town.

Many of these problems could be addressed if there were a lawyer available to help.² For example, when "Ann" married "Tom," she had a son from a previous marriage whom he adopted, and together they had a daughter. Throughout the marriage, Tom had been violent, so violent that he threw Ann into a glass front china cabinet. At a family picnic the 4 year-old son misbehaved, Tom made him do push-ups until his arms gave out, then the boy had to run around the track field. Tom and Ann separated. During a therapy session, the boy admitted that Tom had sexually abused him. With the help of a MLSA attorney, Ann got a divorce from Tom, equal distribution of the debts incurred during the marriage and a parenting plan that does not allow Tom visitation rights.

"Rita" incurred a \$645 debt at the local casino and started paying the owner. Before her debt was paid off, the owner lost the casino and collection on the debts was turned over to an agency. Rita used her income tax refund to pay off her original debt, but the collection agency sent her a letter stating she owed double the original amount. The collection agency got a judgment against her for \$1,211. An MLSA attorney filed a brief on her behalf and the court found that her original debt had been paid in full.

"Jane" and her husband moved into a rental in late '02. Their landlord started entering their apartment unannounced late at night to do unscheduled repairs. He harassed them, sent a complaint letter by certified mail, and an eviction notice in mid-'03 with no 30 day notice even though their rent was paid in full. The landlord then filed a complaint in justice court for non-payment of rent. Jane filed *pro se* a counter complaint of retaliatory eviction, and documented her rental payments. Through MLSA, Jane's case was referred to a pro bono attorney who filed briefs on her behalf. The Court ruled in Jane's favor, she received a refund of her deposit and a reasonable settlement from the landlord.

"Gina," a disabled grandmother, is the custodian of several grandchildren who live with her. Within two days after signing a one-year lease, the sewer system of Gina's rental house overflowed, producing six inches of standing water in the basement. The landlord told her to refrain from using the toilet. As the situation became worse, with sewage flowing into the tubs on the first floor, local social service agencies and the Red Cross helped Gina and the children move into substitute housing. Upon hearing of her move, the landlord refused to return any of her \$1,000+ prepaid rent. MLSA legal interns, working under

²The cases described below, with names changed to protect confidentiality, come from legal aid case loads.

attorney supervision, assisted Gina in obtaining a judgment against the landlord for triple the amount of rent. They continue to work on collecting on the judgment.

The key finding of this report is that there are far too many Franks, Lauras and Helens, and too few of the happy endings found by Ann, Rita, Jane and Gina.

I. Methodology

The primary source of data used in this study is a survey of the legal needs of low and moderate income persons³ conducted throughout Montana during 2004. This survey was conducted by the Montana State Bar Association with the assistance of Portland State University in Portland, Oregon, under the supervision of Professor Grant Farr, Chair of the Sociology Department. The survey asked questions about forty-seven common circumstances that typically give rise to a need for civil legal services.⁴ Where the respondent's household had experienced such a situation within the last year, additional questions were asked to determine whether the respondent sought or obtained legal help, the reasons for not seeking assistance, and attitudes about the legal system as a result of the experience. Since many of the interviewers were not lawyers, the survey forms were reviewed to assure that the situation described did, indeed, represent a potential legal problem.

The study was designed to assure collection of information about a broad cross-section of the lower income population, but also to include specific segments that face particularly acute legal needs or special barriers to access to the legal system. Since many in these target populations do not have telephones, may not have mailing addresses and, in any event, would not likely respond by mail, the surveys were conducted in person. At least 100 surveys of each specific target demographic group were sought and the overall survey results adjusted to reflect the demographic characteristics of the general population. The groups particularly targeted in the survey included persons with mental or developmental disabilities, persons with physical disabilities, domestic abuse survivors, seasonal agricultural workers, homeless persons, senior citizens over seventy years of age, incarcerated persons, Native Americans living on a reservation, and Native Americans living in a non-reservation setting. These groups are defined in the Appendix. The surveyors also attempted to target immigrants, but were unable to obtain a sufficient number of interviews to achieve reliable results. Surveys were taken in all areas of the state, in both metropolitan and non-metropolitan settings. Fig. 1 displays the regional distribution.

1.9 % of the respondents were seniors over 70 (4.8 % older than 80). 67.6 % were working. 43.9% had children in the household. 57.7 % were women. 63.5 % described themselves

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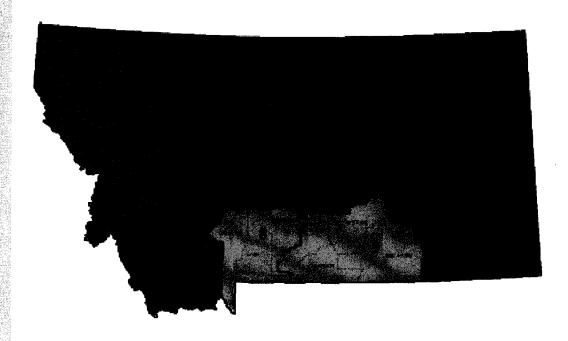
³Low-income" means a household earning less than 125% of the 2002 Federal Poverty Guidelines, or a household of four earning less than \$401 per week (gross income). "Moderate-income" means a household earning less than 200% of the 2002 Federal Poverty Guidelines, or a household of four earning less than \$942 per week.

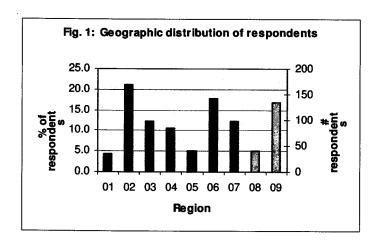
⁴The survey used a simplified version of the survey instrument employed in earlier work studying legal need at Temple University, *see* Reese, Roy W., and Eldred, Carolyn A., REPORT ON THE LEGAL NEEDS OF THE LOW- AND MODERATE-INCOME PUBLIC, Institute for Social Research, Temple University (American Bar Association 1994), as subsequently modified by the author in Dale, D. Michael, THE STATE OF ACCESS TO JUSTICE IN OREGON (Oregon State Bar 2000), and utilized in THE WASHINGTON STATE CIVIL LEGAL NEEDS STUDY, Task Force on Civil Equal Justice Funding (Washington State Supreme Court 2003).

as white, 20.1 % as Native American, 13.1 % as Mexican, Chicano, Latino or Hispanic, 7 % as Black or African American and .4 % as Asian or Pacific Islander. Since earlier research found that moderate income persons have fairly similar legal needs as low income persons, 5 a separate survey was not conducted. However, a cluster of more than one hundred moderate income households was taken to verify earlier findings.

For details of the methodology see presented Appendix.

⁵See sources cited in fn. 4 above.





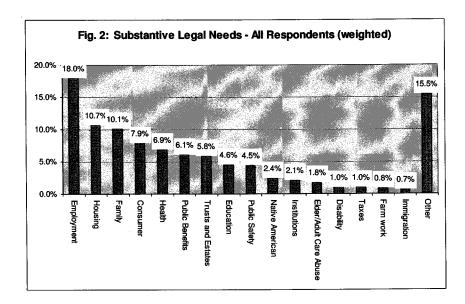
II. What are the Legal Needs of Lower Income Households in Montana?

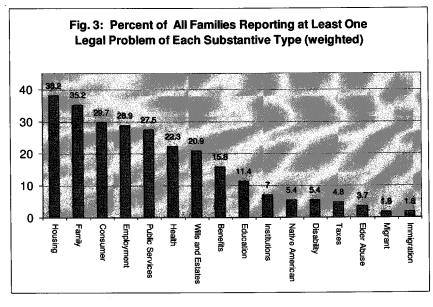
A. General Findings

Low income households in Montana reported a mean number of 3.47 legal problems in their households over the last year. These problems entailed a range of substantive legal issues, with employment (18.0 % of all legal issues presented), housing (10.7 %) and family (10.1 %) being the most common legal issues reported. Figure 2 shows the reported distribution of all substantive legal issues.

Another way of looking at the distribution of substantive legal issues is to ask how likely it is that a low income household will have at least one legal need in a year that involves a particular type of substantive issue. Fig. 3 illustrates that 38.2% of low income households in Montana are likely to have a legal need involving a housing issue. Family law issues (35.2%), consumer problems (29.7%), employment issues (28.9%) and issues with public services (27.5%) were among the most common legal needs reported.

Low income households in Montana reported a mean number of 3.47 legal problems in their households over the last year.



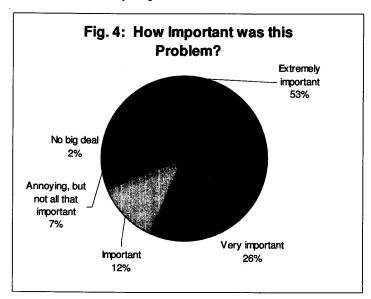


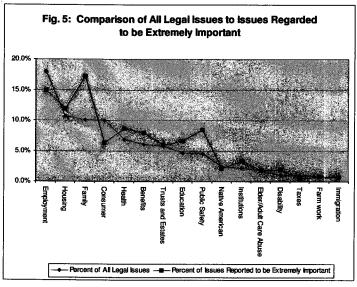
More than half of the problems were rated to be "extremely important." another quarter were seen to be "very important" and nine out of ten problems were rated as "Important," "very important" or "extremely important."

B. Severity of Legal Problems

Whenever a survey respondent reported that the household had experienced a situation that presented a potentially legitimate legal issue, as judged by an attorney reviewer, the problem was counted as a legal need without regard to its severity. In order to determine how important these legal needs were to the families involved, the respondent was asked to rate the seriousness of the problem encountered. While a few of the identified problems were viewed to be rather insignificant, more than half of the problems were rated to be "extremely important," another quarter were seen to be "very important" and nine out of ten problems were rated as "important," "very important" or "extremely important." Figure 4 presents the rating of the seriousness of the identified legal issues.

Evidently, the survey respondents did perceive some difference in the relative importance of their legal needs depending upon the substantive legal issue that the needs involved. Figure 5 illustrates the substantive distribution of those problems that were perceived to be extremely important. Family law and public safetyissues are much more likely to be described as extremely important, while consumer issues are much less likely to be so perceived. Health, public benefits, education, institutions and disability issues are slightly more likely to be described as extremely important, while employment and taxes are slightly less likely to be seen to be extremely important.

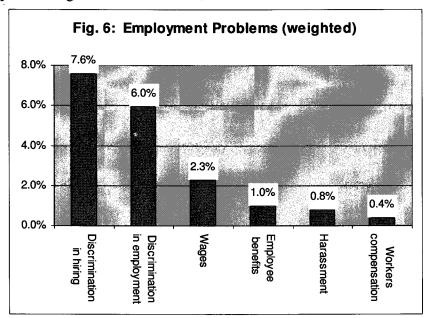




C. Analysis of Problems within Substantive Areas

In the data reported thus far, a number of legal problems were grouped together in substantive categories to make analysis easier. For example, "housing" would include evictions, difficulties with public housing, poor housing conditions, mobile home problems, housing discrimination, and a range of other housing problems. Figures 6-20 show the nature and relative prevalence of legal issues that were reported within each overall category.

As can be seen in Figure 6, the overwhelming issue in employment was with various forms of alleged discrimination in hiring or during the course of employment. Figure 7 shows the perceived basis of discrimination in those reported incidents judged by a reviewer to present a potential legal issue.



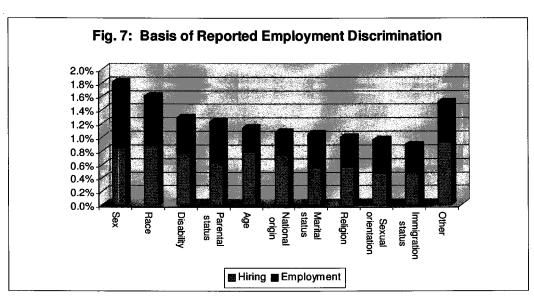


Figure 8 notes that the key housing problems reported by respondent households were with bad conditions (3.2% of all reported legal issues), utilities (3.2%), discrimination (2.2%), and landlord/ housing authority problems (1.8%).

The overwhelming issue in employment was with various forms of alleged discrimination in hiring or during the course of employment.

Divorce and custody issues predominate (6.6%), followed by domestic violence (2.2%) and child welfare issues.

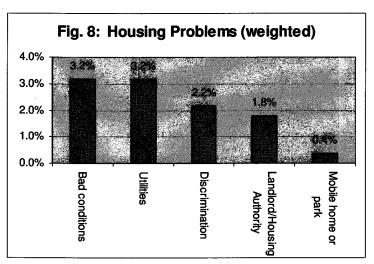
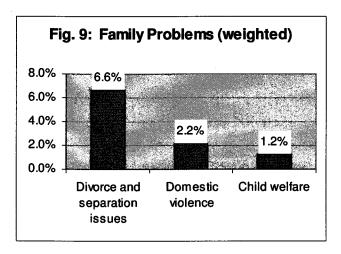


Figure 9 gives the relative number of family law issues. Divorce and custody issues predominate (6.6%), followed by domestic violence (2.2%) and child welfare issues.



In Figure 10, consumer issues are illustrated. Key problems include debt collection practices (3.7%), contract problems (1.5%), harsh loans (1.1%), poor goods or services (1.0%) and discriminatory credit (.7%).

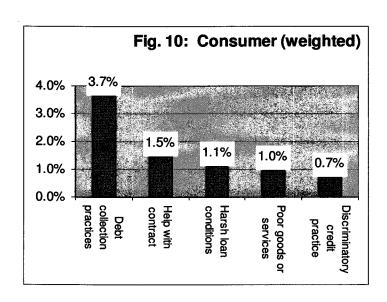
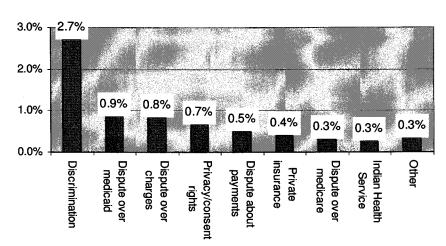
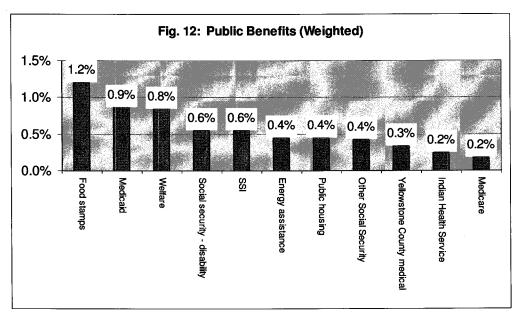


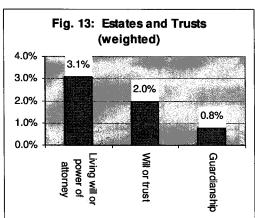
Figure 11 breaks out the relative number of reported health issues. Discrimination was the dominant health issue.

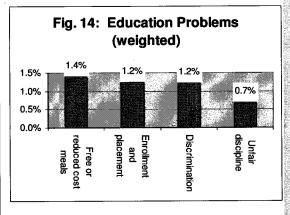
Fig. 11: Health (weighted)



Figures 12-20 show the incidence of other substantive law categories.







Discrimination was the dominant health issue.

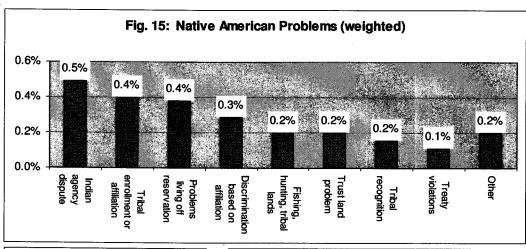
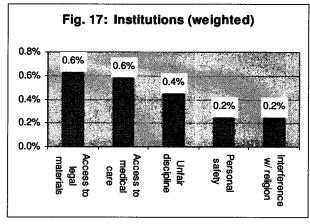
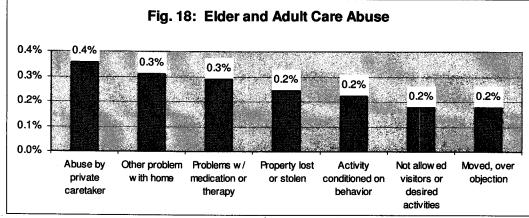
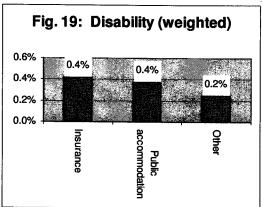


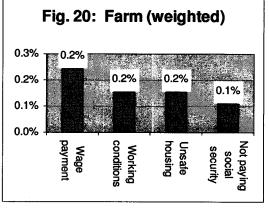
Fig. 16: Public Safety (weighted)

5.0%
4.0%
3.0%
2.9%
1.6%
1.6%
Police not doing their job harassment



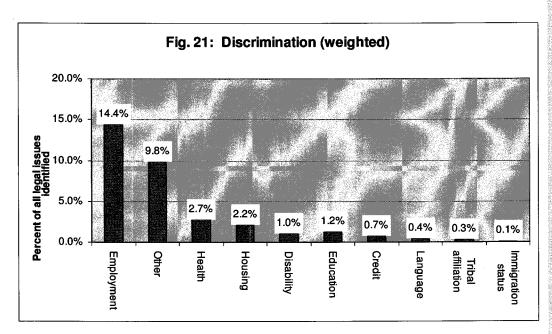






D. Discrimination as a Factor in Low Income Legal Needs

One of the striking observations in the analysis of legal needs of lower income families in Montana is the significant role played by perceived discrimination in the reported legal needs of the respondent households in this survey. Discrimination was cited as a factor in fully 32.8 % of the legal issues identified by the respondents in this survey. The nature of these incidents are illustrated in Figure 21. Employment discrimination was overwhelmingly the most significant issue, accounting for 14.4% of all total legal issues.



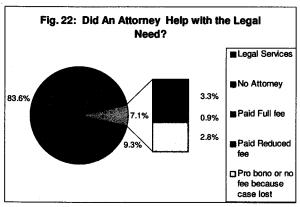
Discrimination was cited as a factor in fully 32.8 % of the legal issues identified by the respondents in this survey.

Overwhelmingly, the legal needs identified were not addressed with the assistance of counsel... ...An attorney provided some form of help in only 16.4 % of these situations.

III. Did the Respondent Households with Legal Problems Have Help from a Lawyer?

Those respondents who reported having experienced a legal problem in their household over the past year were asked a set of additional questions about how the household dealt with the legal need. Overwhelmingly, the legal needs identified were not addressed with the assistance of counsel. In 83.6 % of the legal need situations the household was not assisted by a lawyer at all. An attorney provided some form of help in only 16.4 % of these situations. Legal services programs provided assistance with 9.3 % of the issues, while the private bar lent help in 7.1 % of the situations. The household paid a normal, full fee in 3.3% of the total legal problems. In 0.9 % of the cases the household paid a reduce fee rate. 2.8 % of the legal needs were addressed by a member of the private bar without payment of fees, either on a pro bono publico basis or because the case was unsuccessful. The households reported receiving help through a prepaid legal plan or legal insurance with only 0.2 % of the legal needs. Figure 22 illustrates the likelihood that a household received assistance by an attorney to address an identified legal need, by whom the assistance was provided and on what fee basis.

Fig. 23 shows the types of assistance that respondents who had a lawyer reported receiving. The most common type of assistance reported was "Intervened or represented in a non-court dispute" (8.9 %). The relatively low number of cases in which respondents were only provided with advice, when compared to the reported level of advice-only cases in legal services programs, may suggest that the recipient of advice often may not perceive that advice as having provided significant legal help.



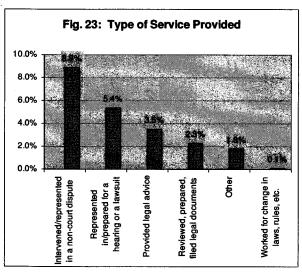
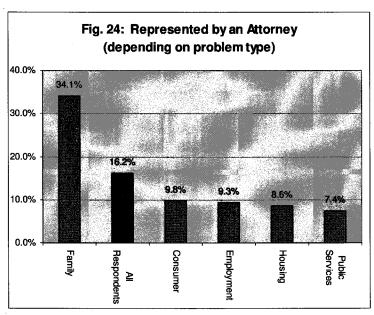
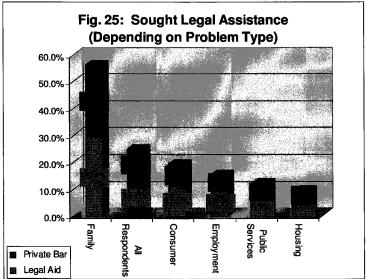


Figure 24 illustrates how likely it is that the household found an attorney to help them, depending upon the nature of the legal problem they were experiencing. It is about three times more likely that a household with a family law problem will be represented (34.1 % of legal needs) than a household with other kinds of legal needs. At least part of the explanation for this is that it is more likely that the household sought assistance. See Figure 25. This is consistent with the finding noted above in Figure 5 that family law problems are more likely to be perceived to be extremely important.⁶



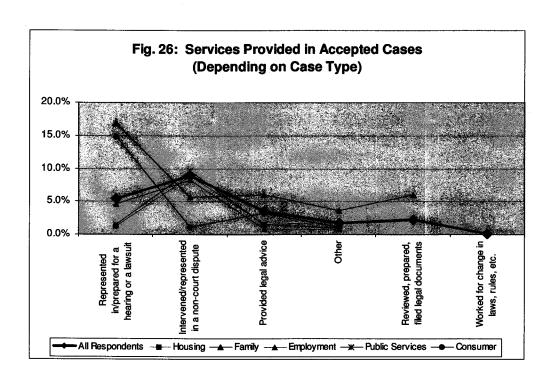


There is also a significant difference in the nature of services provided to the respondent families depending on case type. Households with family and consumer problems are far more likely to be actually represented in connection with a court or administrative hearing, while other cases are more likely to be handled through non-court intervention. See Figure 26.

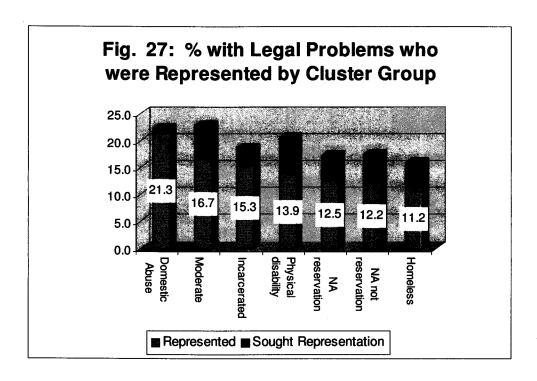
It is about three times more likely that a household with a family law problem will be represented than a household with other kinds of legal needs.

⁶ It is also likely that family problems are more likely to be perceived to be "legal" problems needing the intervention of an attorney. See discussion below at Figure 30.

While 21.3% of survivors of domestic abuse were able to find representation, anly 11.2% of homeless households were able to do so.



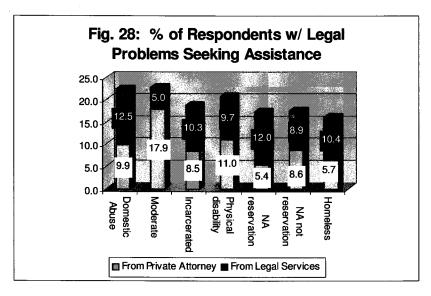
Respondents reported differences in the likelihood of finding a lawyer to help with legal problems depending on household membership in a cluster population. Figure 27 shows the percentage of respondents in cluster groups who asked for, and received, legal assistance. While 21.3% of survivors of domestic abuse were able to find representation, only 11.2% of homeless households were able to do so.



⁷ There were an insufficient number of reported problems in which legal assistance was sought or located for the other cluster groups to be able to draw reliable conclusions.

Figure 27 also indicates differences in the likelihood that a member of a particular cluster household who seeks legal help will find it. Note that more than 95% of domestic abuse survivors who sought legal assistance were successful, while less than 70% of homeless persons, off-reservation Native Americans, and persons with a physical disability who sought help were assisted by an attorney. Cluster groups reported seeking legal help from private attorneys or legal services in different percentages.

Figure 28 shows that domestic abuse survivors, the incarcerated, Native Americans and the homeless are more likely to seek help from legal services programs than the private bar. Of course, moderate income households, who, by definition, for the most part, are not eligible for assistance from legal services programs, are much more likely to seek help from the private bar.



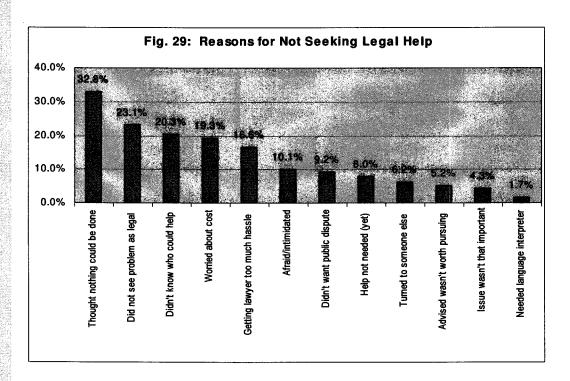
See Figure 60, page 49, for a description of regional differences in the ability to procure legal assistance.

Domestic abuse survivors, the incarcerated, Native Americans and the homeless are more likely to seek help from legal services programs than the private bar.

One of the key reasons that many of the respondents who reported legal needs did not receive legal help is that they did not seek it.

IV. Why were so Few of the Respondents Represented, and Where did they Turn for Help?

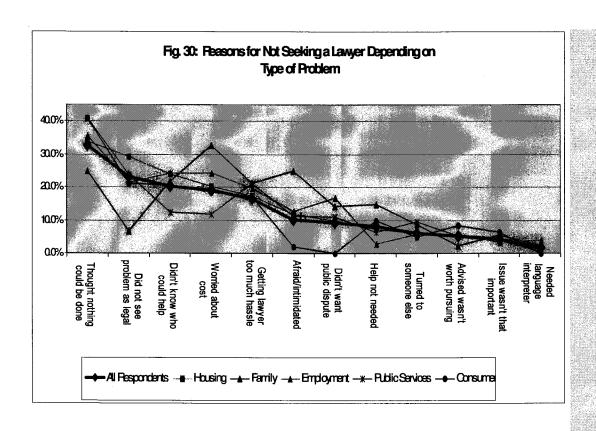
One of the key reasons that many of the respondents who reported legal needs did not receive legal help is that they did not seek it. Figure 29 shows reasons given by those who reported a problem but did not seek legal help. Nearly a third thought that nothing could be done about the problem; almost one quarter didn't think of the problem as a legal issue (though a lawyer reviewing the facts concluded that it potentially was). About twenty percent did not know who could help with the problem, or were worried about the cost. 16.6% of respondents who had a legal need and did not seek help said they did not do so because the process of getting a lawyer was too difficult. One in ten felt intimidated. Very few thought that the issue was not important (4.3%).

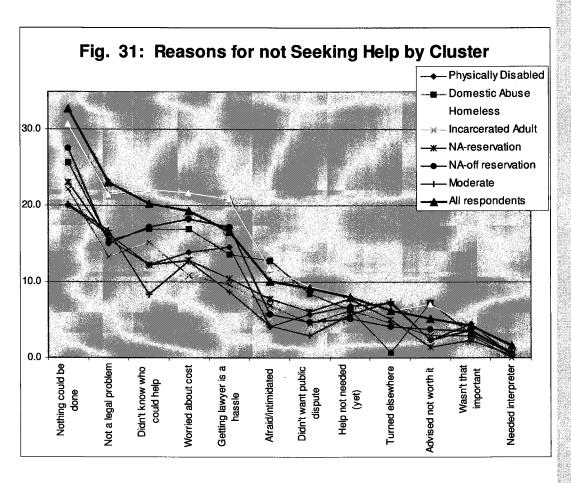


There were significant differences in the reasons given by respondents who had a problem but did not look for a lawyer depending upon the type of legal problem encountered by the household. See Figure 30. Family law problems were much more likely to be identified as being legal problems, perhaps accounting for the much greater likelihood of seeking a lawyer noted above in figure 27. Respondents also were much more likely to think that a legal remedy was available for family problems, and significantly more likely to report being worried about cost, being intimidated, or that they did not yet need help. Households with employment problems were significantly more likely to report that they did notwant a public dispute about the matter, and were more likely to say they were worried about cost,

⁸Only 6.7% of those with family problems who did not seek assistance reported that they did not see the problem as legal, as compared with 23.1% of all respondents who had legal problems but did not seek assistance.

⁹Thought nothing could be done-family 25.0% vs. 32.8% for all respondents, and over 40% for consumer and public services problems. Worried about cost-32.8% for family vs. 19.3% for all respondents. Afraid or intimidated-25.0% for family vs. 10.1% for all respondents. Help not needed yet-14.8% for family, 8.0% for all respondents.





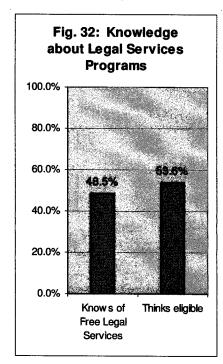
A majority of respondents did not know that there was a program that provided free legal services and only slightly more than half thought that they would be eligible for services in any case.

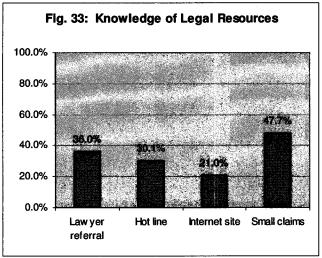
did not know who could help, and needed a language interpreter, but less likely to say that help was not needed.¹⁰ Respondents with housing problems were notably less likely to see their problem as legal.¹¹

There were differences in the reasons given by respondents for not seeking help depending upon their being in one of the cluster groups studied. Figure 31.¹² Note that the homeless were significantly more likely to find it a hassle to get a lawyer, be worried about cost, and not know where to turn for help. The remaining cluster groups had lower responses for nearly all of the other reasons than all respondents combined.

As noted above, a factor contributing to the low level of representation of households with legal problems may be the lack of information about legal resources, and how to access them. All respondents were asked about what they knew about legal resources. Figure 32 reveals that a majority of respondents did not know that there was a program that provided free legal services and only slightly more than half thought that they would be eligible for services in any case.

Knowledge about other legal resources was also strikingly lacking. Figure 33 shows that a minority of the respondents were aware of the existence of lawyer referral services (36.0%), a legal hot line (30.1%), an internet website to assist in locating legal resources (21.0%), or even of the existence of a small claims court where litigants could proceed without the assistance of a lawyer (47.7%).





¹⁰ Avoiding public dispute–employment, 16.8% vs. 9.2% for all respondents. Did not know who could help–24.3% employment vs. 20.3% all respondents. Worried about cost–24.3% employment, 19.3% all. Needed interpreter–4.0% employment, 1.7% all. Help not needed yet–2.9% employment, 8.0% all.

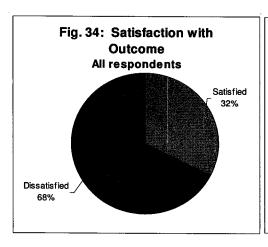
^{1129.1%} vs. 23.1% for all respondents.

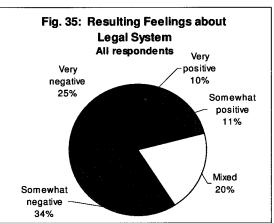
¹²There were insufficient responses for persons with mental disabilities, seasonal agricultural workers, immigrants, seniors and the control group to draw meaningful conclusions as to this question.

V. Resulting Attitudes from Having Had a Legal Problem

The respondents who had experienced a legal problem were also asked a series of questions about how their attitudes had been affected by the experience. Overall, encounters with legal problems were a very negative experience for respondents in this survey. When asked whether they were satisfied with the outcome, respondents who had experienced legal problems were largely dissatisfied (68%), with about a third reporting that they were satisfied (32%). See Figure 34. Respondents were also asked how the experience had left them feeling about the legal system. A quarter of all respondents said they were "very negative" about the system, and nearly sixty percent were either "very negative" or "somewhat negative." Only 21% said that they were either "very positive" or "somewhat positive." Figure 35.

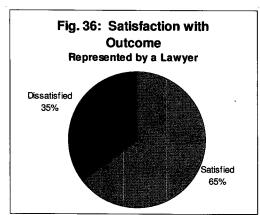
Overall, encounters with legal problems were a very negative experience for respondents in this survey.

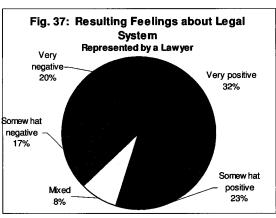




On the other hand, if the households had received some level of assistance from a lawyer, they reported much more positive attitudes. As noted in Figure 36, those assisted by a lawyer said they were satisfied (65%) and dissatisfied (35%) by the outcome in about opposite proportions to the results for all respondents.

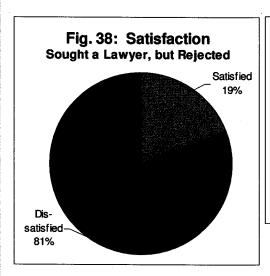
Represented respondents were also much more likely to view the legal system in a positive light. Although nearly as many saw the legal system in very negative terms (20%), more than half said that their feelings were either "very positive" (32%) or "some what positive." (23%). Figure 37. It thus appears that having an attorney's help with a legal problem results in very significantly better feelings about the outcome and about the legal system.

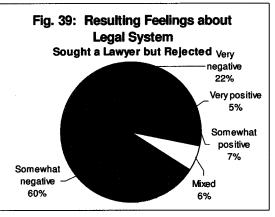




If a household tried to get help, but did not succeed, the resulting attitudes were extremely negative.

As noted above, many of the respondents were not represented because they did not seek a lawyer. However, if a household tried to get help, but did not succeed, the resulting attitudes were extremely negative. Figure 38 reveals that more than 80 % of respondents who sought a lawyer, but did not find representation were dissatisfied with the outcome. In Figure 39, it can be seen that more than eighty percent of respondents who sought legal assistance but did not receive it were leftfeeling very or somewhat negative about the legal system. Only 12 % felt positive or somewhat positive.





There was some difference in the residual attitudes of respondents depending on the kind of problem their household had experienced. Figure 40 shows the level of satisfaction of respondents who encountered legal problems. Respondents with employment and public services problems tended to be most dissatisfied, while those with family law issues were the least dissatisfied. Perhaps this is reflective of the phenomena that family law respondents were more likely to be represented by an attorney (see Figure 24) and the scope of representation was more likely to be intensive (Figure 26).

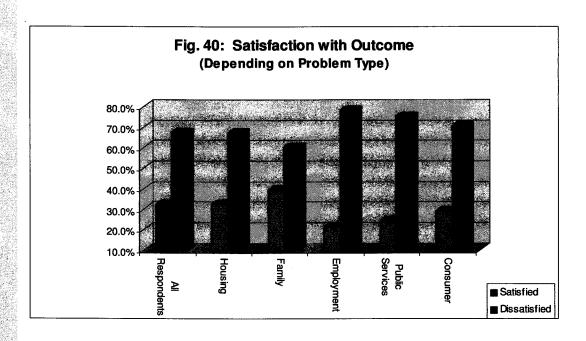
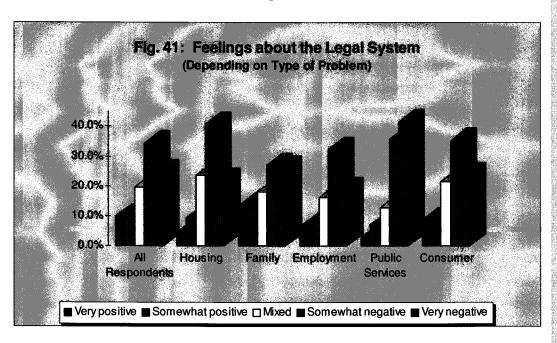
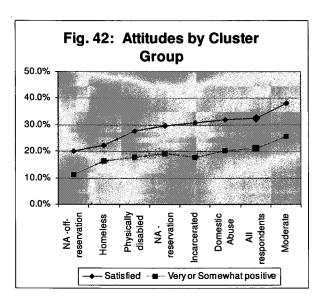


Figure 41 details the attitudes of respondents who experienced legal problems towards the legal system as a result of their experiences, depending upon the substantive nature of the problem encountered. Housing and public services problems resulted in the most negative feelings, while households with family law problems tended to be the least negative.



Housing and public services problems resulted in the most negative feelings, while households with family law problems tended to be the least negative.

Looking at the attitudinal data reported by the different cluster groups also revealed some significant variation by cluster group. Figure 42 shows this variance.¹³ Moderate income respondents were more satisfied, and were left with more positive feelings for the legal system than all respondents as a result of their experiences. All other cluster groups reported being less satisfied, and less positive, though off-reservation Native Americans and the homeless were significantly less satisfied and less positive toward the legal system, while other groups were nearer to the norm.

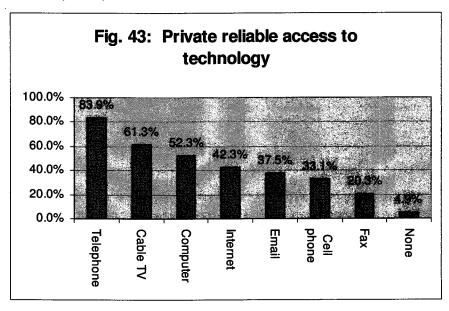


¹³ There were an insufficient number of responses from other cluster groups to reach reliable conclusions as to this data.

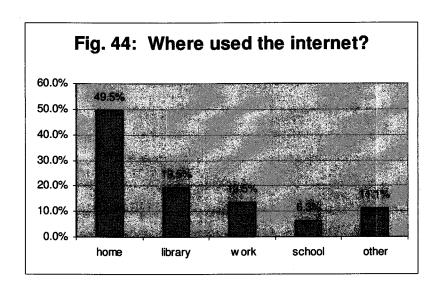
Most of the respondents (83.9%) had private, reliable access to a telephone, although 17.1% lacked even this basic service.

VI. Prospects of Improving Access through Technology

One approach that legal services programs nationally have been exploring is the use of technology such as hotlines, web pages, internet communications, etc., to improve access to legal services. To establish a baseline for the prospective usefulness of such technologies, all respondents were asked about their access to and ability to use various means of technology. Most of the respondents (83.9%) had private, reliable access to a telephone, although 17.1% lacked even this basic service. Figure 43. Cable television reached 61.3%. Fewer than half (42.3%) had private, reliable access to the internet, though an additional 10% did have access to a computer. Only 37.5% had private, reliable access to email, and only about a fifth (20.3%) had such access to a fax.



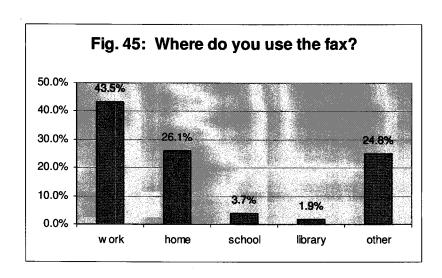
Those respondents who said they had private reliable access to a particular technology were asked where they used that technology. Figure 44. About half (49.5%) used the internet at home, 19.5% at a library, 13.5% at work, and 6.3% at school. Respondents were slightly more likely (55.7%) to use email at home. On the other hand, fax use was much less likely to be at home (26.1%) and more likely to be at work (43.5%) or at some other place (24.8%). Figure 45.

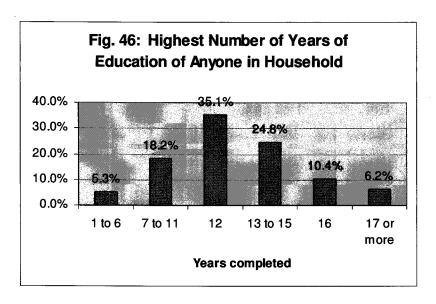


Another measure of ability to use technology to solve legal problems is the general education level of the household. Respondents were all asked the highest level of education that anyone in the household had attained. Figure 46 shows the distribution of education levels of the households represented. Almost a quarter did not have anyone in the household who completed twelve years of school.

Those respondents who reported legal problems were asked about whether they had attempted to use a legal hotline to obtain help with their legal problems. Only 4.7% had done so. This produced too few responses to be able to make meaningful conclusions about their experiences with using the hotline.

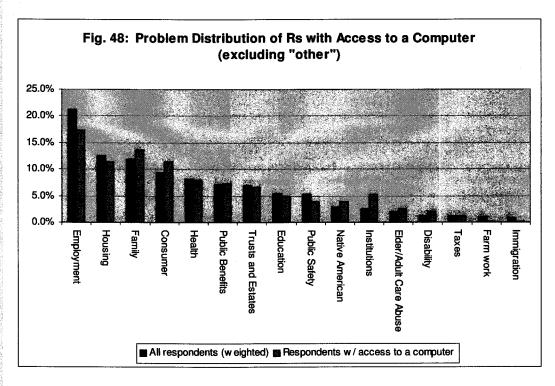
Information about regional variations in educational levels and access to technology is reported in Part VIII at pp. 31-34.





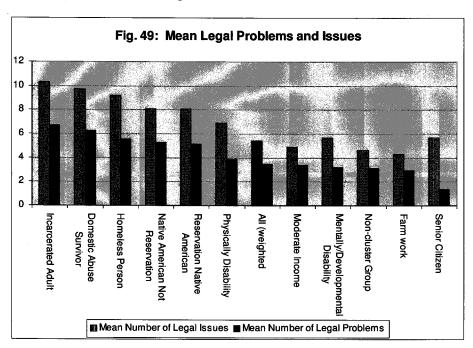
Almost a quarter did not have anyone in the household who completed twelve years of school.

To assess whether technologically advanced households had a different set of substantive problems than the general population of lower income households, the distribution of substantive problems between the two groups was compared. Figure 48 shows that comparison. Respondents with a computer were slightly more likely to have family, consumer, Native American, institutional, elder or adult care abuse or disability problems. They are slightly less likely to have employment, housing, public safety, farm work or immigration problems.

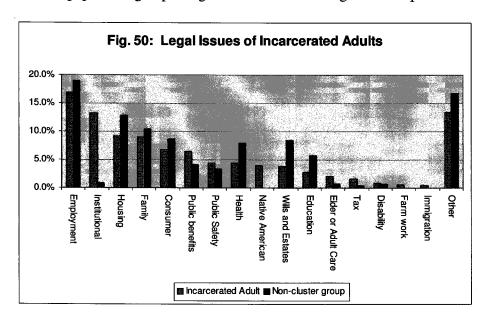


VII. Differences in Legal Problems of Demographic Clusters

A significant finding of the survey is that certain population groups encounter (or report) different numbers of legal problems with different levels of intensity. For example, incarcerated adults experienced a mean number of 6.7 legal problems entailing an average of 10.3 distinct legal issues, as compared to senior citizens, who reported 1.4 legal problems entailing 5.7 legal issues.¹³ See Figure 49.

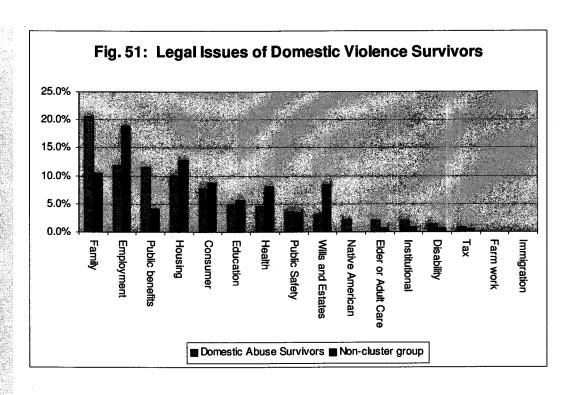


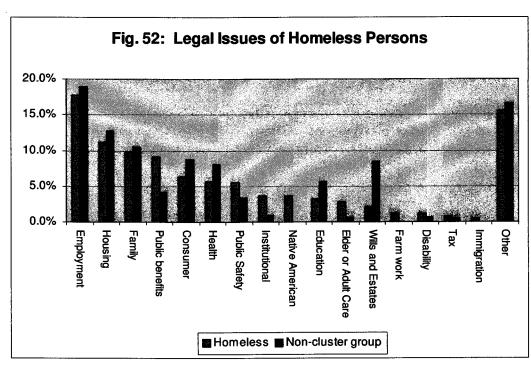
There were also significant differences in the nature of substantive problems encountered by the various population groups. Figures 50-59 show the legal needs reported.

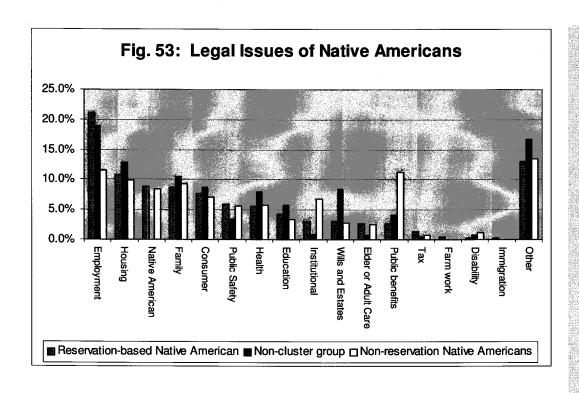


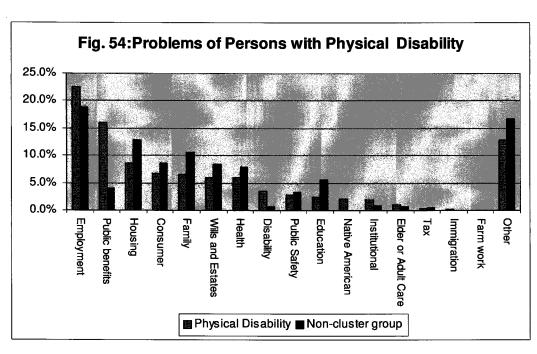
¹³ Since farm workers and senior citizens are both likely to be found in settings (labor camps and nursing homes) where candid discussion of legal difficulties may be problematic, at least to the extent that the problems are with the respective owners of these institutions, these figures may represent a significant under reporting of the legal needs of these groups.

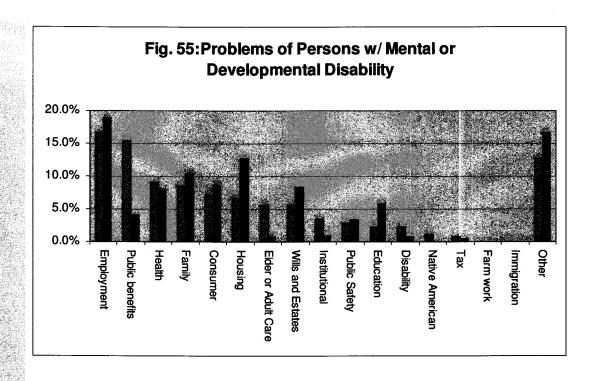
A significant finding of the survey is that certain population groups encounter different numbers of legal problems with different levels of intensity.

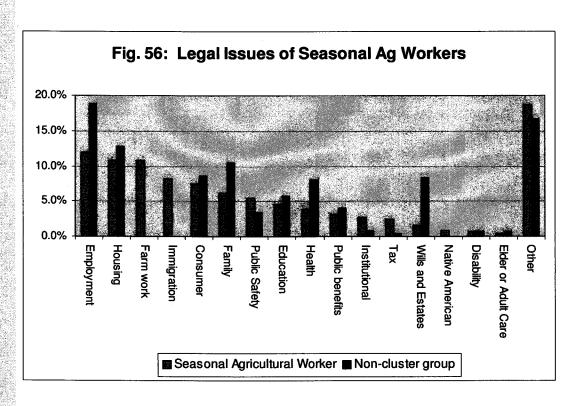


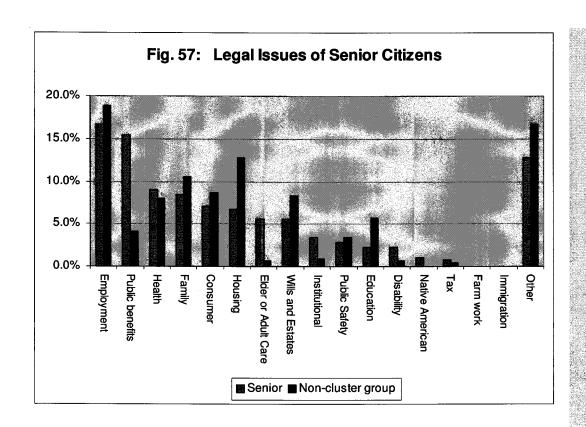


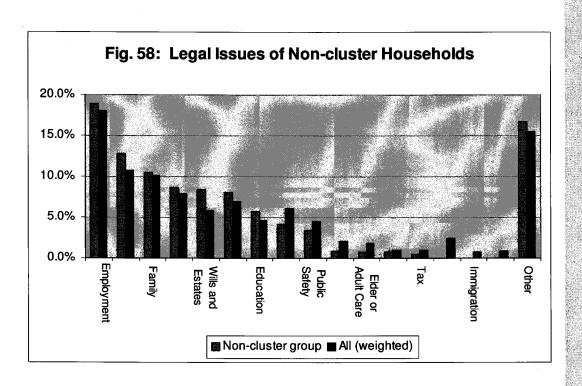


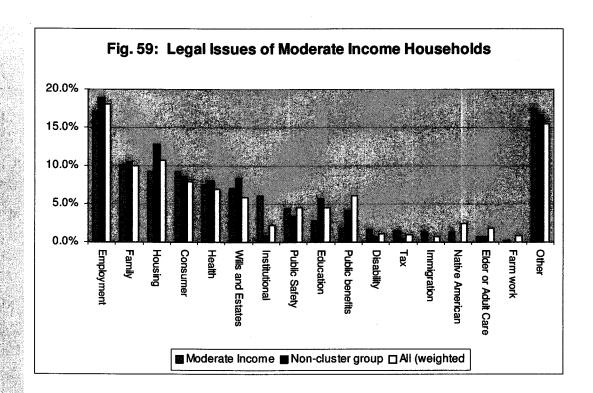






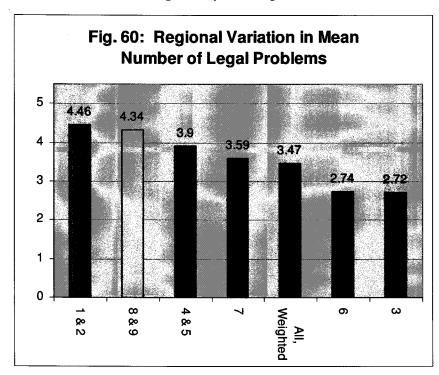






VIII. What differences were observed with respect to different regions of the state?

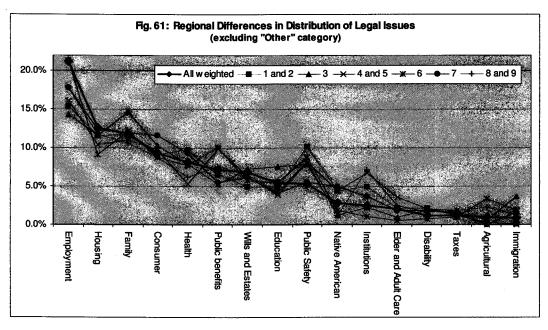
There were some differences in reported response depending upon region of the state. Some regions seem to encounter a relatively higher number of legal problems than others. Regions 1 and 2 in the northwest part of the state reported a mean number of 4.46 legal problems per year, while regions 6 and 3 in the east and southwest recorded significantly lower numbers of 2.74 and 2.72, respectively. See Figure 60.





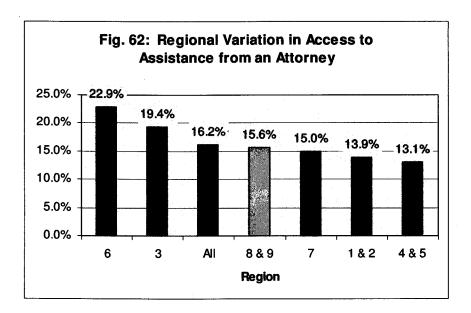
Some regions seem to encounter a relatively higher number of legal problems than others.

The substantive nature of those problems was fairly similar, but differences in regions can be noted. Figure 61. For example, public safety problems are much more common everywhere in the state except region 7. Institutions problems are more frequent through the center of the state in regions 4, 5, 8 and 9. In the eastern part of the state, housing problems are less common but employment much more frequently reported. Higher levels for family, education and immigration problems are noted in the southwest, while agricultural problems were observed at a higher level in the east.

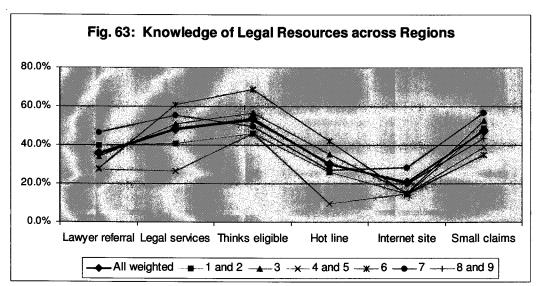


The likelihood of a household having had assistance of an attorney was found to vary regionally within the state. Figure 62 shows the regional variation, ranging from 22.9 % in eastern counties to 13.1 % in north central regions.



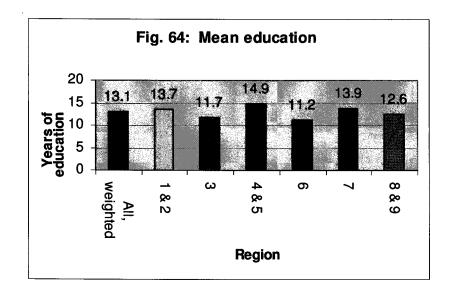


Interestingly there was a difference in the knowledge of legal resources in different regions of the state. See Figure 63. Generally, the north central parts of the state reported much lower awareness of legal services, the hot line and lawyer referral, while the eastern part of the state was more aware of legal services and the hot line, but was less likely to know about lawyer referral services.



There were also some significant regional differences in access to technology and average educational levels. The north central part of the state reported a higher level of educational attainment for the most educated person in the household (14.9 years). The eastern counties reported the lowest mean level of education (11.2 years). Figure 64.

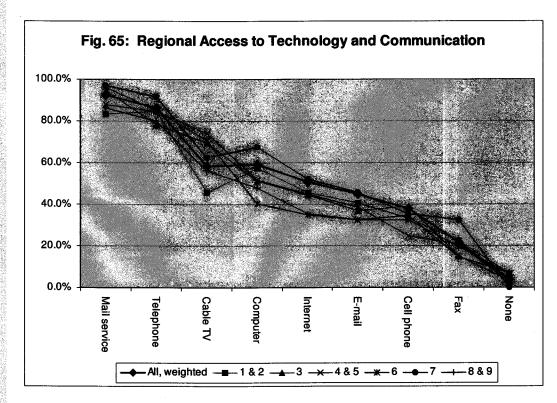




The eastern counties reported the lowest mean level of education (11.2 years).

Computer and internet services are generally less available in the eastern and south central regions of the state.

Computer and internet services are generally less available in the eastern and south central regions of the state. Cable television is not as common in households in the northwest. Figure 65.

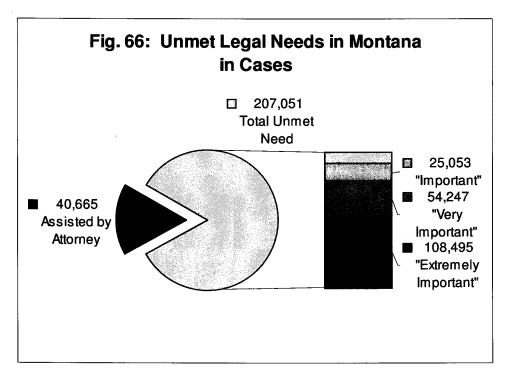




IX. How large is the unmet need for legal services in Montana?

The central finding of this survey is that there is an enormous unmet need for legal services among lower income households in Montana. From the data generated, it is possible to estimate the size of that need.

According to the 2000 census, there are 174,900 low-income people in Montana. The average household size is 2.45, so there are 71,388 low-income families in the state. This study reports an average of 3.47 legal problems per household per year. Thus, the number of legal problems of low-income households would be about 247,716. If 83.6% of those problems do not receive assistance, it is likely that there are roughly 207,051 unmet legal needs each year in Montana. Figure 66.



Undoubtedly, some of these cases may not have sufficient merit to take action, when all of the facts are out. Others would probably be handled with advice, or very simple intervention far short of litigation. Still, to the households involved, these needs represent important, unmet needs, and may, in appropriate cases, require more significant assistance. Of the projected number of unmet needs, the households involved would be expected to feel that 90.1 %, or 187,795 of these cases, were either "important," "very important," or "extremely important." 52.4%, or 108,495 cases would be seen as "extremely important," and 26.2 %, or 54,247 cases, "very important."

It is likely that there are roughly 207,051 unmet legal needs each year in Montana... ...the households involved would be expected to feel that 90.1%. or 187,795 of these cases, were either "important," "very important," or "extremely important."

Conclusion

Wide-spread inability to obtain representation is creating very negative attitudes with respect to the legal system.

The Montana Legal Needs Study has identified a huge unmet need for civil legal services among low income families in Montana—probably in excess of 200,000 cases each year for which no legal assistance is available. These legal problems are seen to be highly important to the families involved. Where access to counsel is available, an encounter with the legal system is likely to produce relatively positive attitudes towards the institutions of the law. However, the wide-spread inability to obtain representation is creating very negative attitudes with respect to the legal system.

Appendix: Research Methodology¹

This appendix discusses the methodology used to conduct the Montana State Legal Needs Study. Discussion includes description of the sampling techniques, the profile of the sample (demographic characteristics of the sample), the data gathering process and the analysis techniques used.

The purpose of this study was to examine the unmet civil legal needs of low and moderate income Montanans. The data was collected by interview surveys using a fixed interview protocol.

Sampling Technique

Data was gathered by establishing sampling quotas based on preexisting information on the composition of the population in Montana below or near the poverty level. In most cases, census data was utilized for this purpose, though in some instances, more recent data was available. The first step was to identify the major components of the target population. A quota was established for each component cluster to ensure that adequate numbers of each component cluster group would be selected in the sample. Once the clusters had been identified and the quotas established, the responsibilities for identifying and interviewing respondents was assigned. Respondents were interviewed by volunteer interviewers around the state. Both total and cluster group quotas for nine regions of the state were assigned on the basis of population to assure geographic balance. The assistance of social agencies in identifying and interviewing respondents was also sought. All interviewers were trained, using a standard program developed for this purpose to assure common understanding of terms, standard procedures and selection of respondents as randomly as possible (given the targeting of cluster populations).

The identified cluster groups were defined as follows:

Migrant and Seasonal Workers: Individuals seasonally employed in agriculture, including but not limited to field work, or who move from place to place following field work.

Homeless persons: Individuals who do not have a permanent place to live, except in a shelter, campground, other non-permanent facility, or on a temporary basis with friends or relatives.

Incarcerated Adults: Adult residents of correction facility or jail, either currently or within the last 12 months.

Immigrants: Individuals who have arrived within the last five years from other countries and who seek to make the United States their permanent place of residence.

Persons with Mental and Developmental Disabilities: Individuals who suffer from developmental or chronic mental disabilities.

Appendix

¹This description of methodology is adapted from the description of the methodology of the Oregon legal needs study, originally written by Priya Sukumaran and Amy Arnett of the Department of Sociology at Portland State University.

Reservation-based Native Americans: Native American individuals who reside on or within 25 miles of one of the State's Indian reservations.

Off-Reservation based Native Americans: Individuals who identify themselves as being of indigenous Native American origin, regardless of whether they are formally a member of a recognized tribe, and who live further than 25 miles of a reservation.

Persons with Physical Disabilities: Persons who are seriously hindered, because of physical conditions(s), in engaging in necessary life activities.

Domestic Abuse Survivors: Individuals subjected to physical or emotional abuse by a current or former intimate partner within the last 12 months.

Senior Citizens: Individuals over 70

Moderate Income: Those between 125% and 200% of the federal poverty level guidelines.

Control Group: Low-income residents who are not included in another cluster.

The target sample size for this study was 1000, and the obtained sample size (N) was 843. Volunteers throughout Montana personally administered the survey. The field research was coordinated by Ann Gilkey from the Montana State Bar staff. Research consultants were D. Michael Dale and Professor Grant Farr, Chair of the Sociology Department at Portland State University. Data entry and analysis was conducted by graduate students of the PSU Sociology Department. The data was collected throughout Montana during 2004. The respondents' participation was voluntary and was not compensated.

Characteristics of the Sample

The sample (N=843) consisted of low and moderate-income persons in Montana. Moderate-income persons were included in this sample to verify that moderate-income persons had legal needs similar to those with low incomes as found in earlier legal needs studies. Households with combined incomes of up to 125% of the federally established poverty level for their family size were regarded to be low income; moderate income households included incomes between 125% and 200% of the federal poverty level.

At least one hundred respondents for each demographic category were sought and the final survey results were weighted to adjust for their actual proportion of the Montana populations in this income level using the best available demographic data. The cluster population categories are not exclusive, so that a single respondent might be in two or more cluster populations. For example, an interview with a disabled Native-American homeless male could count in all three categories.

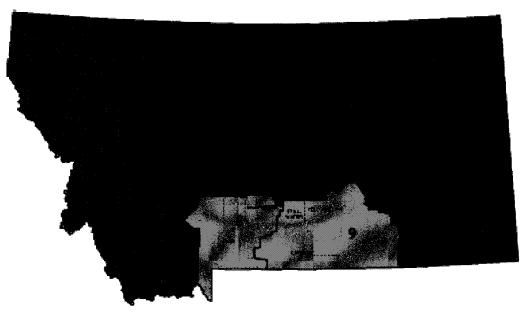
The number of survey respondents in each category was as follows:

Key Demographic Group	Total number surveys	Percent of Sample
Persons w/ physical disability	149	17.7
Persons w/ mental or developmental disability	119	14.1
Senior citizen	94	11.2
Domestic abuse survivor	102	12.1
Migrant or seasonal agricultural worker	103	12.2
Homeless	165	19.6
Incarcerated adult	131	15.5
Immigrant	38	4.5
Reservation-based Native American	101	12.0
Off-reservation Native American	110	13.0
Moderate income	144	17.1
Households not including any of the key demographic groups	95	11.3

The majority of quotas were met for the identified demographic groups. Quotas were not met for senior citizens, immigrants, and the control group. However, sufficient numbers were reached to ensure adequate representation in the final sample for senior citizens and the control group. Insufficient surveys of immigrants were completed to be able to generalize results with any level of confidence.

The sample was gathered in various regions of the state and included a broad range of ages, and races. The tables below show regional distribution, age, race and sex of respondents.

Regional Distribution





Appendix

: Ficolog	Number of Surveys	Percent
01	35	4.2
02	169	20.0
03	98	11.6
04	84	10.0
05	41	4.9
06	143	17.0
07	98	11.6
08	41	4.9
09	134	15.9
Total	843	100

Age Distribution

40	Number	Percent
1-19	12	1.5
20-50	559	68.5
51-60	99	12.1
61-70	55	6.7
71-80	58	7.2
81 or older	33	4.0

Race

Rese	Nümber:	Percent
White	522	63.5
African American	6	.7
Mexican, Chicano, Hispanic, or Latino	108	13.1
American Indian, Aleut, or Eskimo	165	20.1
Asian or Pacific Islander	3	.4
Indicated Other	11	1.3
Did not answer	21	
Total	843	

Sex:

	Number	Reropiti
Male	351	42.2
Female	480	57.7
Total	832	100.0
Missing	11	
Total	843	

Survey Instrument

The interview protocol was developed by modifying a survey instrument designed by Temple University for the American Bar Association for a similar national needs study, and used, with modifications, in the Oregon and Washington state legal needs studies. The original instrument was edited to shorten it and better to reflect the situation in Montana. The survey instrument consists of two parts:

Part I: Consisted of the primary survey of 92 questions. In addition to demographic data and questions about access to technology, the survey contained 47 questions that described common legal situations that frequently may occur in low income households in Montana. The questions included, for example, family, housing, employment, consumer, public services, public benefits and other similar issues. If respondents said that their household had faced any particular problem in the last year, they were asked to provide a brief description of the situation, which was recorded by the surveyor for subsequent attorney review.

Part II: Consisted of a short survey of 23 questions that probed whether or not the respondents sought legal help (from a hotline, legal services or a private attorney), and if so, whether they were accepted for representation, at what level of intensity and whether a full or reduced fee was charged. If the respondents did not seek legal assistance, they were asked about reasons for not doing so. The Part II supplement also contained a series of questions about the respondents' level of satisfaction with the outcome and their residual attitudes about the legal system as a result of the encounter.

If legal problems were identified in Part I of the interview, a separate supplement was filled out for each legal problem identified, except that interviewers were asked to complete only a maximum of five Part II supplements for any one respondent. If the respondent identified more than five problems, the interviewer was referred to a random-numbers sampling table to select the particular five questions that required a completed Part II supplement.

Since many of the interviewers were not lawyers, the surveys were reviewed by a lawyer to assure that the situation described by the respondent did, indeed, represent a potential legal issue.

The survey was designed to gather information about a broad cross-section of the lower income population. It also focused on specific segments of population that have been found to encounter acute legal needs or experience special barriers to access to the legal system. The survey also included questions about whether or not the respondents had knowledge about where to get legal assistance or obtain a legal remedy. The surveys were conducted through face-to-face interviews since many in the target population may not have telephones, and a mail- out/mail-back survey would be problematic.

The interview generally took between 45 minutes and an hour and a half to conduct. Directions regarding the nature of the survey and a user's guide were provided to assist the interviewer in conducting the interview. Finally, a translation of the survey into Spanish was done, as some of the respondents did not speak English. These interviews were conducted in Spanish.

Appendix

Data Analysis

Data were analyzed quantitatively by the survey consultants. The interview results were numerically coded and entered into a data matrix by the team at Portland State University. Each finished questionnaire was reviewed to ensure that the legal issues were properly coded and that each respondent met the criteria.

When analyzing the sample as a whole, cluster groups that had been over- or under-sampled were assigned weighting based upon their proportion of the population of Montana in these economic ranges. By this method the sample is made properly to represent the people of Montana.

The analysis mostly consisted of frequency tables, descriptive analysis (means, ranges) and cross tabulations. The results were mostly reported in percentages, and were illustrated by bar graphs, histograms and pie charts.